

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6858 OF 2015

Suresh s/o Mahadu Tupe

...Applicant

versus

Gautam Rustum Talekar & anr.

...Respondents

.....

Mr. N. A. Matkar, Advocate h/f Mr R. V. Gore, Advocate for applicant

Mr. A. D. Gadekar, Advocate for respondent No.1

Mr S. G. Ghayal, A. P. P. for respondent No. 2

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CORAM : N.W. SAMBRE, J.

DATE : 21st JUNE, 2016

ORAL ORDER :

Prima facie, this Court is of the opinion that learned Judicial Magistrate, First Class, Phulambri, Dist. Aurangabad, vide order dated 02/11/2015, acquitting the accused of an offence punishable under Section 138 of the Negotiable Instruments Act, has committed an error of law by ignoring the principle that there is presumption in favour of the holder of cheque and the said presumption is required to be rebutted by the accused person.

2. In view thereof, leave to appeal is granted.

3. ***Admit.***

4. Learned Counsel waives service of notice for the respective respondents.

[N.W. SAMBRE, J.]

Tupe/